

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BETTY WILLOUGHBY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-20-89-F
)	
ZIMMER US, INC. d/b/a ZIMMER)	
BIOMET formally known as)	
BIOMET, Inc.,)	
An Indiana Corporation,)	
)	
Defendant.)	

COMPLAINT

COMES NOW, the Plaintiff, Betty Willoughby, and for her Claims for Relief against the Defendant, Zimmer US, Inc. d/b/a Zimmer Biomet formally known as Biomet, Inc. (hereinafter as “Biomet”), an Indiana Corporation, alleges and states as follows:

JURISDICTION

1. Plaintiff is, and at all times relevant to this action, was a citizen and resident of the State of Oklahoma.

2. Defendant, Biomet is, and at all times relevant to this action, was a corporation incorporated within the State of Delaware with its principal place of business within the State of Indiana, more specifically 345 East Main Street Warsaw, IN 46580

3. Complete diversity of citizenship exists within the purview of 28 U.S.C. § 1332. At all times relevant to this cause of action, the Plaintiff/Defendant had the requisite

minimum contacts with the State of Oklahoma, and the amount in controversy in this action exceeds Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs.

CLAIMS FOR RELIEF

4. On or about October 23, 2013, Plaintiff, Betty Willoughby, was admitted to the Oklahoma Center for Othopaedic and Multi-Specialty Surgery in Oklahoma City, Oklahoma, for the purpose of undergoing a right total knee arthroplasty. The surgery was performed by Derek West, D.O., a non-party herein. The components utilized by Dr. West in Plaintiff's right total knee arthroplasty were as follows:

- a. Biomet Vanguard PS Open Box Interlok Fem-RT 62.5 mm, Catalog Number 183106;
- b. Biomet Vanguard CoCr Finned Tibial Tray 67 mm, Catalog Number 141232;
- c. Biomet Vanguard Posterior Stabilized Tibial Bearing 63/67 x 14 mm, Catalog Number 183624;
- d. Biomet Vanguard Series A Patella 3 Peg Thn 28 x 6.2 mm, Catalog Number 184782.

5. On or about July 23, 2019, it was discovered by Faustino Kazenske, D.O., a non-party herein, during revision surgery of Plaintiff's right knee that Plaintiff's previous right total knee arthroplasty failed due to loosening of both the femoral and tibial components. Said components were designed and/or manufactured by Defendant, Biomet. Said failure required the revision of Plaintiff's right total knee arthroplasty and replacement of all Defendant, Biomet's above listed components.

6. Failure of the above listed components designed and/or manufactured by Defendant, Biomet caused Plaintiff, Betty Willoughby, to suffer severe injuries to mind and body which are permanent and painful.

7. The above listed components manufactured, designed and distributed by the Defendant, Biomet and placed in Plaintiff, Betty Willoughby, failed and such failure directly caused and/or contributed to Plaintiff sustaining severe and permanent injuries, pain and suffering, disfigurement and medical expenses. Said components were defective in design and/or manufacture. Said defects existed when the components left the hands of Defendant, Biomet, making the components unreasonably dangerous beyond the contemplation of the ordinary user. Defendant, Biomet, is therefore strictly liable to Plaintiff under the doctrine of manufacturers' products liability.

8. In addition, Defendant, Biomet, breached applicable implied and express warranties, including warranties of merchantability and fitness for a particular purpose.

9. Further, Defendant, Biomet, failed to provide appropriate warnings regarding the potential dangers associated with the use of said components, including warnings regarding the risk of a failure such as was experienced by Plaintiff.

10. As a direct and proximate result of the defects existing in said components designed, manufactured, distributed, sold and/or placed into the stream of commerce by the Defendant, Biomet, Plaintiff suffered severe injuries to mind and body which are permanent and painful. Plaintiff has incurred medical expenses and has been damaged in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).

11. Defendant, Biomet, is hereby placed on notice that its conduct evidenced an outrageous and willful disregard for the safety of Plaintiff, for which Plaintiff will seek an instruction from the Court which would allow the Jury to return a verdict for punitive damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Betty Willoughby, prays that this Court enter judgment against the Defendant, Biomet in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with interest and costs of this action and for such relief as this Court deems just and reasonable.

Respectfully submitted,

s/Derek K. Burch

DEREK K. BURCH, OBA # 13004
DEEANN L. GERMANY, OBA #17750
BRETT T. REAVIS, OBA # 33595
BURCH, GEORGE & GERMANY, P.C.
1500 City Place Building
204 North Robinson
Oklahoma City, Oklahoma 73102
Telephone: 405-239-7711
Facsimile: 405-239-7795
derek@burch-george.com
deeanngermany@burch-george.com
brett@burch-george.com
Attorneys for the Plaintiff

ATTORNEYS' LIEN CLAIMED